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Protracted conflicts in the GUAM area and their implications for international peace, security and development

Status of internally displaced persons and refugees from Abkhazia, Georgia and the Tskhinvali region/ South Ossetia, Georgia

Report of the Secretary-General

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I. Introduction

1. The present report is submitted pursuant to General Assembly resolution 66/283, in which the Assembly requested the Secretary-General to submit a comprehensive report at its sixty-seventh session on the implementation of the resolution. The report covers the period from 1 April 2012 to 30 March 2013 and draws on information received from a number of United Nations entities.

2. In accordance with the provisions of the resolution, the report focuses on: (a) the right of return of all refugees and internally displaced persons and their descendants, regardless of ethnicity; (b) prohibition of forced demographic changes; (c) humanitarian access; (d) the importance of preserving the property rights of refugees and internally displaced persons; and (e) the development of a timetable to ensure the prompt voluntary return of all refugees and internally displaced persons to their homes.

II. Background

3. Following an escalation in conflict in 1992, which caused significant displacement of civilians, armed hostilities between the Georgian and Abkhaz sides ended with the signing in Moscow on 14 May 1994 of the Agreement on a Ceasefire and Separation of Forces (see S/1994/583 and Corr.1). That agreement was preceded by the signing in Moscow on 4 April 1994 of the quadripartite agreement on the voluntary return of refugees and displaced persons (see S/1994/397), in which the parties agreed to cooperate and interact in planning and conducting activities to safeguard and guarantee the safe, secure and dignified return of people who had fled from areas in the conflict zone to the areas of their previous permanent residence. Armed hostilities between the Georgian and South Ossetian sides ended with the 24 June 1992 Sochi Agreement, which established a ceasefire between the Georgian and South Ossetian forces and the creation of the Joint Control Commission and Joint Peacekeeping Forces.

4. Following the hostilities that started in the Tskhinvali region/South Ossetia, Georgia, on 7 and 8 August 2008, the six-point plan of 12 August 2008 and the implementing measures of 8 September 2008 (see S/2008/631, paras. 7-15), international discussions were launched in Geneva on 15 October 2008, co-chaired by representatives of the European Union, the Organization for Security and Cooperation in Europe (OSCE) and the United Nations (see S/2009/69 and Corr.1, paras. 5-7). The international discussions were to address the issues of security and stability and the return of internally displaced persons and refugees. By the end of the reporting period, 23 rounds of the Geneva international discussions had been held, with participants meeting in two parallel working groups.

5. In June 2011, the General Assembly, in its resolution 65/288, approved the budget for the United Nations Representative to the Geneva International Discussions. The establishment of a special political mission has facilitated the continued engagement of the United Nations in the Geneva process. The United Nations Representative and his team are responsible for preparing, in consultation with the co-chairs, the sessions of the Geneva international discussions. In December 2011, the General Assembly, in its resolution 66/248 A, appropriated the programme budget for the biennium 2012-2013 for special political missions,

including for the United Nations Representative to the Geneva International Discussions. Moreover, in my report on estimates in respect of special political missions, good offices and other political initiatives authorized by the General Assembly and/or the Security Council (A/67/346), I included among the proposed resource requirements for the period from 1 January to 31 December 2013 the United Nations Representative to the Geneva International Discussions, which has an open-ended mandate.

6. The United Nations Representative to the Geneva International Discussions and his team are also responsible for preparing, convening and facilitating the periodic meetings of the Joint Incident Prevention and Response Mechanism under United Nations auspices in Gali (see S/2009/254, paras. 5 and 6). The last (35th) meeting of the Mechanism took place on 23 March 2012. The next meeting did not take place as planned on 24 April 2012, owing to differences that arose among participants regarding the composition of the Mechanism. Unfortunately, multiple efforts to overcome those differences did not result in the resumption of the Mechanism by the end of the reporting period. The United Nations Representative will continue his bilateral engagement with all stakeholders with a view to keeping communication open and resuming the meetings as soon as possible.

7. During the reporting period, participants in Working Group I of the Geneva international discussions continued to discuss the security situation on the ground and concerns expressed with regard to detentions, procedures for crossings and other developments. They also continued discussions on the key issues of the non-use of force and international security arrangements. International obligations constraining the use or threat of force, without prejudice to the right of individual or collective self-defence, are embodied in the Charter of the United Nations and other international instruments. All steps in the direction of non-use of force, including unilateral statements by all relevant stakeholders are strongly encouraged, and I encourage the co-chairs and participants to continue to intensify their efforts to draft a "Statement by the participants of the Geneva international discussions on the non-use of force".

8. During the reporting period, Working Group II addressed the situation of displaced persons, including their right of return and other durable solutions, and the humanitarian needs of all affected populations and possible humanitarian responses. Efforts continued to reach consensus on a framework document affirming the fundamental, internationally recognized principles governing the treatment of displaced persons, the need for humanitarian access and the importance of voluntary return in safety and dignity. While, regrettably, some participants in the Working Group disengaged from work on the framework document, as well as from discussions on the issue of return, I note, with appreciation, that all participants in the deliberations expressed their commitment to respecting human rights.

9. Working Group II also systematically reviewed the situation on the ground and discussed possible humanitarian measures to address the specific needs of internally displaced persons. Several participants briefed on the humanitarian, infrastructure and development programmes and projects that they were undertaking. Access to gas supply and to potable and irrigation water remained on the agenda, and I am pleased, with regard to the latter, that OSCE reported further progress on their projects. The challenges to agricultural production caused by the *Hyphantria cunea*

moth continue to be addressed through an integrated pest management approach, including prevention and mitigation measures in the affected areas.

10. Participants regularly exchanged views on the human rights situation on the ground. The Office of the United Nations High Commissioner for Human Rights (OHCHR) remained ready to pursue its proposal for a technical mission aimed at updating the High Commissioner and the participants of the Geneva international discussions on the human rights situation. In this context, all stakeholders are reminded that human rights do not have any borders and that they are thus obliged to uphold the fundamental freedoms and human rights of all concerned people. Regardless of questions related to legal status, it is important to address any human rights protection gaps and the underlying human rights issues in protracted conflicts. It is imperative that OHCHR and other relevant actors have access to the territory, affected populations and those who are in effective control, and be able to work with the latter in order to facilitate access to human rights protection mechanisms and effective legal remedies.

11. Another topic that received sustained attention by all participants was the continued unknown fate of persons who went missing during the conflicts. The understanding shown by all participants of Working Group II for the plight of the families of the missing and the commitments made to engage meaningfully on the issue, in particular by supporting the work of the International Committee of the Red Cross (ICRC), is commendable. While many humanitarian issues remain unresolved, the Geneva international discussions continue to offer an opportunity for participants to discuss such issues in a constructive manner and liaise with United Nations humanitarian agencies, funds and programmes located in Geneva.

12. To allow for more informed debates, special information sessions were conducted in conjunction with the formal rounds of the Geneva international discussions, allowing participants to benefit from the experience and advice of the United Nations, non-governmental organizations (NGOs) and other experts. Participants were given the opportunity to deepen their understanding of, inter alia, the legal aspects of the concept of occupation; the legal, technical and operational aspects of the search for missing persons; approaches and methodologies serving the assessment of the needs and requirements of affected populations; and the role of women in conflict resolution.

13. While some participants have questioned the present format and efficiency of the Geneva international discussions process, ongoing and structured dialogue is crucial to enhancing stability in the region and to making progress on the security, humanitarian and other remaining challenges. I reiterate that the Geneva international discussions remain the only forum for relevant stakeholders to meet and address the issues identified in resolution 66/283.

III. Right of return

A. Scope of displacement, return and local integration

14. No major changes were observed during the reporting period with regard to refugees and internally displaced persons exercising their right of return, and no new significant displacement was registered. While substantial progress was made

towards the local integration and resettlement of a number of internally displaced persons, it should be noted that they generally are not able to make free and informed choices as to whether to return or to avail themselves of other durable solutions.

15. There is some non-quantified evidence of some displaced individuals of different ethnic backgrounds having returned to the Gali district permanently, temporarily or on a seasonal basis, from the Russian Federation or third countries. Moreover, a number of families who were previously commuting between Gali and Zugdidi on a seasonal basis moved back to Gali, but no precise data quantifying such individual returns to the Gali region or other parts of Abkhazia are available. The authorities in control continue to deny the return of ethnic Georgian internally displaced persons to locations outside of the accepted return areas in the Gali, Ochamchira and Tkvarcheli districts. While falling beyond the strict scope of the present report, but relevant in its broader context, the arrival in Abkhazia of approximately 170 Syrian citizens, primarily of ethnic Abkhaz background, whose ancestors had been displaced in the nineteenth century from the Russian Empire to the Ottoman Empire, is noted, and I call upon all relevant stakeholders to respect the principle of non-refoulement.

16. With regard to return to the Tskhinvali region/South Ossetia, there is an indication that some individuals have returned from the Russian Federation, in particular from North Ossetia, but efforts undertaken to promote further return, in particular from the Russian Federation, have not yielded major results. The return of internally displaced persons from Georgia has been routinely denied by the authorities in control, apart from return to the Akhalgori district, which is possible, at times, for those displaced from that area. Proposals made at the Geneva international discussions included the need to promote return. The Office of the United Nations High Commissioner for Refugees (UNHCR) continues to observe seasonal movements of people in and out of the Akhalgori district, and promoted such movements through the provision of free bus tickets. However, it should also be noted that some individuals have reduced or temporarily suspended their movements to the district owing to documentation problems.

17. UNHCR remains ready to revive consultations on the return of persons of concern to the Akhalgori district with a view to securing the safe and voluntary nature of any such movement. All stakeholders are encouraged to keep return options open and to abstain from any restrictive measures. Moreover, further steps are needed to ease the crossing procedures in the area to allow individuals not only to maintain contact and follow developments in their home communities, but also to make a free and informed choice as to whether to return or to integrate in areas of displacement or elsewhere.

18. While more than 100,000 individuals who were displaced during the 2008 conflict have returned to their homes, most of them soon after the conflict, 20,272 persons remain in displacement. A participatory assessment, conducted by UNHCR on the reintegration of internally displaced persons who returned to the Shida Kartli region, indicated that about 34,000 persons who have returned to these adjacent areas continue to have some specific protection needs and therefore still fall under the responsibility of UNHCR. Improvements related to physical safety and security have been observed and are acknowledged by the local population, including returnees. However, temporary detentions still occur when farmers intentionally or

unintentionally cross the administrative boundary line, for example, when visiting graveyards, chasing cattle, attending to irrigation channels or transiting to and from work in their fields. I am pleased that the meetings of the Joint Incident Prevention and Response Mechanism in Ergneti have helped in negotiating the quick release of arrested farmers in such cases.

19. The primary remaining protection and reintegration challenges relate to shelter rehabilitation needs and limited livelihood opportunities. Additional measures undertaken by the Russian Federation border guards along the administrative boundary line, including the use of barbed-wire fencing, have complicated the maintenance of irrigation channels, blocked traditional access routes and trails, and sometimes led to the arrest of persons crossing the administrative boundary line. The inability to access fields, orchards, traditional grazing grounds, forests and markets has reduced income and employment opportunities. These factors have also limited or delayed further return to areas most adjacent to the Tskhinvali region/ South Ossetia and, in some instances, have prompted new or renewed displacement.

20. Following the relocation of a Georgian police post, some 8 families were able to return to Zardiaantkari and an additional 14 families started to commute regularly to their place of former residence in order to prepare for more sustainable return in the future. There were, however, concerns among some Ossetian inhabitants as to the protection of their rights and well-being, and some expressed their intention to leave the village. The security situation in Zardiaantkari and related confidence measures were repeatedly the subject of discussions at the meetings of the Joint Incident Prevention and Response Mechanism in Ergneti, inter alia, with a view to creating the conditions conducive for return in safety and dignity and to preventing new displacement. UNHCR provided non-food items to returnees and the local population of all ethnic backgrounds in support of these initiatives.

21. According to the Ministry for Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia, as at 13 March 2012, there were 270,943 internally displaced persons registered, representing an increase of 7,241, compared with the number registered by the end of 2011. The increase does not reflect new displacement, but is attributable to children born among internally displaced families, displaced individuals returning to Georgia from third countries and late registration. The total number includes 246,506 persons displaced during the earlier conflicts, 20,272 persons displaced during the August 2008 conflict and 4,165 persons displaced twice. The number of persons displaced from areas most adjacent to the Tskhinvali region/South Ossetia who remain in displacement owing to security concerns or loss of livelihoods, and who are considered by UNHCR to be internally displaced persons as defined in the Guiding Principles on Internal Displacement but do not have access to such status under national legislation, could be further reduced to less than 100 individuals, owing to some returns, including to Zardiaantkari, and late registration. Moreover, in the absence of updated data, earlier estimates referring to some 10,000 persons remaining displaced within the Tskhinvali region/South Ossetia are maintained.

22. The Government of Georgia continues to implement its State strategy on internally displaced persons. The formation of a new government did not affect the principled commitment of Georgia to address the issue of internally displaced persons and its State strategy. The Government continues to pursue two main goals: namely, the creation of conditions for dignified and safe return, and the

improvement of the socioeconomic conditions of internally displaced persons, serving their integration. The State strategy is complemented by the action plan for internally displaced persons, last extended in June 2012 for the period 2012-2014. The new Government has already significantly increased the 2013 budget allocations for internally displaced persons; initiated some restructuring of the Ministry for Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees; and started a comprehensive legislative reform process.

23. Efforts under the action plan for 2009-2012 resulted in significant progress in the provision of durable housing solutions for internally displaced persons. According to the Ministry for Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees, by the end of 2012, a total of 79,222 internally displaced persons had been provided with durable housing solutions in new settlements or rehabilitated and privatized former collective centres, or with monetary assistance in order to meet their housing needs. The action plan for 2012-2014, developed in close cooperation with the international community, including UNHCR, addresses the areas of (a) durable housing solutions; (b) access to social services; (c) livelihoods; and (d) improvement of information and participation of internally displaced persons.

24. Amendments made in December 2011 to the national legislation governing the treatment of internally displaced persons have clarified a number of issues and enhanced the protection of this population against discrimination. At the same time, however, terminology and definitions were introduced and, as a result, not all internally displaced persons — as defined in international law and practice — can enjoy the benefits of the amended Law on the Forcibly Displaced Persons Persecuted from the Occupied Territories of Georgia. This problem, though of reduced quantitative relevance following the possibility of return to Zardiaantkari, has been acknowledged by the new Government and is to be addressed in the reform of the legislation pertaining to internally displaced persons which is under preparation. I encourage swift conclusion of this reform process and, while acknowledging that States have some discretion in the establishment of national legislation governing the treatment of internally displaced persons, I reiterate that the rights of all internally displaced persons, as defined in the Guiding Principles on Internal Displacement, must be respected and protected in law and in practice.

25. Relocations, and related evictions, conducted in the context of the efforts of the Government to provide internally displaced families with durable housing solutions have on some occasions continued to cause grievances among internally displaced persons. Upon advocacy from UNHCR and other actors, the Government has adjusted its approach and is now offering more housing solutions in urban and economic centres and is trying to avoid relocations from urban areas to more remote locations. Other efforts, such as rural housing projects, offered on a pilot basis, which combine the provision of shelter with agricultural land, have expanded the housing options. However, considering the total needs, durable housing solutions remain limited and additional solutions deserve consideration. The standard operating procedures of the Government, developed with a view to enhancing the transparency of the relocations process and the protection of internally displaced persons subject to relocation, were generally respected. It is important that, in any relocation process, the rights of internally displaced persons are protected, the process is transparent and legal safeguards are offered.

26. Given the scale of the displacement, challenges concerning the integration of internally displaced persons remain. The Government assessed that, subject to inflation and exchange rate fluctuations, $749 million would be required to fully meet the remaining housing needs of all internally displaced persons. This included $449 million for the construction of new buildings serving some 23,000 families and about $300 million for financial housing assistance serving an additional 30,000 families. However, the provision of durable shelter, while essential, is not the only aspect of integration. Socioeconomic aspects, such as sustainable livelihoods and access to quality education, medical and social services, must also be addressed. While the United Nations agencies, funds and programmes, together with donors and other stakeholders, will stay engaged and continue to assist the Government in protecting and ensuring the rights of the affected populations, acute humanitarian crises in other parts of the world have negatively impacted the funding level for humanitarian projects in Georgia. Moreover, further progress in integrating and improving the living conditions of internally displaced persons is becoming less a question of humanitarian response and more a matter of mainstreaming their interests into broader development efforts.

27. The Government will therefore have to increasingly use its own resources to address the needs of the displaced population and work towards durable solutions. Legislative reform efforts should review existing assistance programmes with a view to enhancing the efficiency and effectiveness of the limited resources. The new Government of Georgia has significantly increased its budget allocations for projects to be implemented in four regional development and agriculture projects. The authorities are encouraged to ensure that regions hosting displaced populations and internally displaced persons themselves will be able to fully benefit from these measures. In the same vein, and in order to bridge the gap between humanitarian response and development activities, the United Nations Development Programme (UNDP) and UNHCR have expanded their joint programme aimed at improving the livelihoods of internally displaced persons and returned internally displaced persons beyond Shida Kartli to western Georgia.

28. It is estimated that over 45,000 people have returned to their homes in the Gali district. Progress has been made in their reintegration process, though some needs and protection challenges remain. These individuals are officially considered internally displaced persons by the Government of Georgia and as such are eligible for assistance. Seasonal movements related to agricultural activities as well as family visits continued to be observed. Such movements to Abkhazia took place primarily across the administrative boundary line but also directly from the Russian Federation. While more precise and comprehensive, independently verified data on the numbers and profiles of those who have returned, and on the other conflict-affected communities residing in the Gali district, are not available, I call upon the relevant sides to take further steps in order to clarify and acknowledge the number of returnees and to better understand their profile, current situation and remaining vulnerabilities and needs. UNHCR and other relevant United Nations agencies are ready to offer advice and technical assistance in such efforts. Moreover, I encourage all participants in the Geneva international discussions to maximize the use of this forum for the provision and exchange of updated data related to displacement and progress made towards return.

29. During the reporting period, a number of developments had impacted positively on the humanitarian and security situation of the population in the Gali

region and on the reintegration prospects of those who had returned or were in the process of returning. These included a variety of infrastructure and construction measures, such as the conclusion of asphalting the Inguri-Ochachire road, which improved access to services, markets and income-generating opportunities, as well as the rehabilitation of water pipes and the conclusion of the construction of a new hospital and kindergarten in Gali. Such measures were financed by the Russian Federation and constitute part of the implementation of the Complex Plan of social and economic development of Abkhazia for 2010-2012. The Plan entailed a total budget of 10,863.1 million rubles, of which the largest part, namely 1,660 million rubles, is envisaged for road infrastructure. In March 2013, the Russian Federation pledged to continue providing a similar amount of financial support in the framework of the Plan for a further period of three years. Progress was also made in the issuance of documentation to the population of the Gali region, which became more important in the context of movements across the administrative boundary line and which also allows access to some social services.

30. Overall, progress was also observed in relation to security on the ground and perceptions thereof by the local Gali population. The practice of extortion, common in earlier years, was further reduced, and local farmers welcomed the initiation of criminal procedures against two local officials on charges of extortion during the hazelnut harvest season. Unfortunately, this positive trend was disrupted by a number of serious incidents, including the homicides of local law enforcement officers in March and May 2012, which were followed by extensive document checks and house searches in the Gali region, as well as an increased level of violent crimes and kidnappings. Since the autumn of 2012, the situation has remained calm and stable. As of October 2012, Russian Federation border guards co-engaged with the Abkhaz border guards in detailed document and vehicle control functions at the Inguri crossing point. Their systematic and strict measures of controlling movements over the Inguri River had affected, at least temporarily, movements across the administrative boundary line.

31. Thus, despite noteworthy improvements, including infrastructure construction and repair and significant humanitarian efforts, protection and reintegration challenges still exist. Members of the local population, while generally acknowledging progress and grateful for the assistance received, do not yet consider the situation to be "fully normalized", and are afraid that policy changes by any stakeholder (as experienced in the past) may reverse progress and further complicate crossings. Many are worried about their and their children's longer-term prospects of staying in the Gali region and still suffer from the consequences of their earlier displacement and the unresolved conflict, including destroyed houses, inadequate living conditions and a lack of income opportunities. The remaining protection concerns expressed by the returnees relate to: (a) freedom of movement, in particular the longer-term perspective, as messages received are perceived as not always being consistent; (b) access to education, including higher education, and language of instruction; (c) secure access to quality health-care facilities (on both sides of the administrative boundary line); (d) occasional incidents of discrimination, including those related to documentation and access to services; and (e) the denial of effective protection against crime and adequate response to sexual and gender-based violence.

32. Since the conflict in August 2008, the United Nations agencies, funds and programmes have had no operational access to the Tskhinvali region/South Ossetia,

and are therefore not in a position to verify or closely monitor displacement or return movements. However, in preparation for the rounds of the Geneva international discussions, the co-chairs and United Nations staff were able to visit the Tskhinvali region/South Ossetia and familiarize themselves with the noticeable progress made and with a number of the multifaceted rehabilitation efforts undertaken.

33. Information made available to UNHCR by the Federal Migration Service of the Russian Federation indicates that as at 1 January 2013, 87 persons (belonging to 75 families) from Georgia enjoy refugee status in the Russian Federation. Of that number, 6 persons (belonging to 5 families) were recognized in 2012. An additional 1,317 persons (belonging to 1,135 families) from Georgia, including from Abkhazia and the Tskhinvali region/South Ossetia, currently hold temporary asylum status in the Russian Federation. Of that number, 176 persons (belonging to 154 families) were granted temporary asylum in 2012. No organized returns from the Russian Federation to areas covered by the present report were conducted in 2012, and no information is available from the Federal Migration Service on any spontaneous returns. The actual number of persons displaced from Georgia residing in the Russian Federation is considered to be significantly higher, since many are not reflected in the official statistics, having regularized their residence status outside of refugee protection mechanisms or lost refugee status upon acquisition of Russian citizenship.

B. Institutional framework and operational measures

34. In 2005, UNHCR, the Danish Refugee Council, the Norwegian Refugee Council and the Swiss Agency for Development and Cooperation developed, in consultation with all stakeholders, an initiative entitled "Strategic directions: promoting confidence-building measures for displaced and war-affected persons in Abkhazia". The strategic directions were aimed at supporting a bottom-up peace building approach based on self-reliance and community involvement. The directions integrate protection and assistance efforts through monitoring the situation of returnees, addressing their concerns in discussions with the relevant authorities and providing targeted assistance. Since April 2009, the directions have been complemented by a strategic framework for continued humanitarian assistance, which seeks to achieve durable solutions for returnees through integrated protection and assistance activities and promotion of their rights, with a view to preventing renewed displacement of the population in the Gali, Ochamchira and Tkvarcheli districts. Such efforts bring together as strategic partners, under the overall coordination of the United Nations Resident Coordinator, UNHCR, UNDP, the United Nations Children's Fund (UNICEF), the Swiss Agency for Development and Cooperation, international NGOs, namely Action Contre la Faim International, the Danish Refugee Council, the Norwegian Refugee Council, P emière Urgence and World Vision International, as well as some additional humanitarian actors in observer capacity.

35. In July 2010, the Government complemented its State strategy on occupied territories: engagement through cooperation (adopted by Order N107 of 27 January 2010), with the Action plan for engagement (adopted by Order N885 of 3 July 2010, amended on 26 January 2011). The plan envisages the undertaking of a number of steps aimed at building trust and confidence among divided communities. Those

measures were followed in October 2010 by the issuance of the Regulation of the Government of Georgia on the approval of modalities for conducting activities in the occupied territories of Georgia. In that context, the United Nations agencies, funds and programmes will continue to engage in humanitarian action on the basis of their respective mandates and in the framework of multilateral and bilateral agreements governing privileges and immunities of the United Nations. Members of the new Government of Georgia have on various occasions indicated their interest to engage on this issue and have put a number of proposals into public debate, including review of the Law on Occupied Territories, engagement in trade and reopening of the railway lines through Abkhazia. However, it would be helpful if these initial thoughts aiming towards a more flexible and innovative approach could be transformed into a clear, comprehensive and consolidated strategy governing future engagement. At the end of the reporting period, draft amendments of the Law on Occupied Territories had been prepared by the State Ministry for Reintegration and envisage some softening of the provisions governing criminal responsibility in case of violations of the law.

36. As noted in my previous reports (A/64/819, para. 13, and A/65/846, para. 21), for any operational framework and/or liaison mechanism to be effective and serve its aims, it must be accepted and supported by all sides. In this context, I note with appreciation the establishment by UNDP, in consultation with the United Nations country team and all relevant authorities, of a status-neutral liaison mechanism which aims to facilitate dialogue and interaction between the divided communities and the implementation of projects and activities. The liaison mechanism offers a framework of engagement that strictly respects the humanitarian mandates of the relevant United Nations actors and NGOs, clarifies basic rules of engagement and allows participatory and human rights-based approaches in the design, planning and implementation of projects. It is encouraging that the mechanism established has offered good support to a number of humanitarian efforts undertaken on the ground, and it is hoped that consensus can be secured to maintain this mechanism and to preserve its status-neutral and purely humanitarian nature. All stakeholders are urged to engage openly in efforts to see how the effectiveness of this liaison mechanism can be strengthened and how its future use can be maximized in addressing recovery assistance and humanitarian needs, wherever and whenever they exist or arise. All stakeholders are further encouraged to investigate how such a mechanism can be introduced to address the humanitarian assistance requirements of the population living in the Tskhinvali region/South Ossetia.

37. During the reporting period, UNDP has implemented activities to expand access to social and public health services with the full rehabilitation of laboratories and maternity wards in two district hospitals and the free testing of 4,000 persons for HIV/AIDS and other sexually transmitted infections. Special attention was given to youth and their connectivity to the rest of the world. In collaboration with several local NGOs engaged in youth activities, a UNDP-created network of computer-based training centres offered access to information technology and training to more than 400 local youth. In close collaboration with several international actors, UNDP supports civil society development and efforts to reduce tensions. Its efforts to implement a comprehensive project addressing the challenges to agricultural production caused by the *Hyphantria cunea* moth continued and have yielded first results.

38. During the reporting period, the United Nations agencies, funds and programmes continued to assess and respond to various emerging humanitarian needs. Building on the positive results of earlier and recent initiatives in Abkhazia, UNICEF continued to strengthen the capacity of medical professionals and infrastructure related to the routine immunization of children. With the technical support of UNICEF, a revised routine immunization calendar, aligned with World Health Organization standards, has been introduced. The immunization registry database has been further developed and put into use, generating more accurate statistics on immunization coverage and allowing for better planning and implementation of routine and supplementary immunization activities. Within the area of maternal and child health care, in partnership with UNDP, UNICEF increased the scope of its technical assistance to medical professionals by organizing training in advanced methodologies of prenatal and antenatal care for children and mothers. UNICEF continues to engage in community-based activities aimed at increasing access to basic social services for children and youth, in cooperation with other United Nations partners, World Vision International and a range of local partners and communities. UNICEF is also engaged in developing the capacity of education professionals and strengthening youth participation and development, in collaboration with UNDP and other international partners in the region.

39. In 2012, UNHCR supported the construction of 136 houses for 597 returnees and other vulnerable persons. Forty-eight community centres in six districts of Abkhazia (including 15 community centres in the Gali district) continued to operate during the reporting period. UNHCR mobilized local communities to address some key obstacles to sustainable return by providing, inter alia, medical assistance, and income and educational opportunities. In addition, 40 households benefited from livestock or business grants; 90 young adults were given vocational and professional skills training; and 164 people were provided with basic and advanced business development training. Moreover, multidimensional counselling services were offered to 1,827 persons to address medical, psychosocial and legal advice needs, inter alia, to strengthen prevention and response to sexual and gender-based violence.

40. I am also pleased to note that the rehabilitation of Gali School No. 2, as mentioned in my previous report (A/66/813, para. 30), has been successfully concluded. This activity, in which UNICEF, UNDP and UNHCR engaged jointly upon the initiative of the co-chairs of the Geneva international discussions, was developed with a view to enhancing access to education and supporting the co-education of students of different ethnic backgrounds.

41. The issue of freedom of movement across the administrative boundary line has security, humanitarian and human rights dimensions and remains of utmost importance to the local population. Developments during the reporting period were marked by two trends: enhanced control and formalization of crossings. On the one hand, the so-called "borderization" measures, including the blockage of roads and foot paths as well as the increased and more systematic surveillance of the administrative boundary line by the Russian Federation border guards and strict fining practices, have led to a significant decrease in informal crossings; on the other hand, new crossing points were identified in principle, offering prospects for more regular crossing alternatives in the future, but these new crossing points were not fully operational at the end of the reporting period. Five such additional crossing points for use only by pedestrians were supposed to be established in the following

locations in the lower and upper Gali region: (a) Otobaia-2, (b) Nabakevi/Nabakia, (c) Tagiloni/Taglan, (d) Saberio/Papanrkhua and (e) Lekukhona/Alekumkhara. As conflicting messages were received regarding the opening of the additional crossing points and repeated delays occurred (owing reportedly to technical reasons) in putting them into full function, I note with regret that there is uncertainty among concerned families as to whether schoolchildren are allowed to continue studying on the other side of the Inguri River in their familiar environment. I welcome and encourage any steps that would facilitate the freedom of movement of all segments of the local population and allow their movements in safety and dignity. It is noted that the local population was in principle able to continue to move across the Inguri River Bridge and that the simplified permit system introduced in 2010, which facilitates crossing, is being upheld.

42. As the Russian Federation border guards co-engaged in detailed document and vehicle control functions at the Inguri Bridge, as referred to in paragraph 30 above, strict enforcement of laws and regulations on crossing were introduced, which temporarily led to a noticeable reduction and delay in crossings. In October, technical problems, including insufficient training of staff, paired with a lack of awareness among the local population on new crossing procedures and documentation required, resulted in long waiting times at the checkpoint on the northern side of the Inguri Bridge. As a result, the movements of many commuters and small traders were interrupted which promptly resulted in an increase of prices for food, causing concern among the affected population. While technical issues were resolved quickly and staff working at the crossing point gained more practice, the stricter enforcement of rules governing documentation required for crossing have effectively excluded those segments of the Gali population who, for whatever reasons, do not possess and are not able to obtain any of the variety of documents enabling crossing. This, in addition to an increase in income opportunities and health services in Gali, temporarily resulted in a significant reduction of crossings via the Inguri Bridge, compared with those mentioned in my previous report. The practice of systematic document control and registration of commuters on the southern side of the Inguri Bridge, temporarily introduced by the Georgian authorities, was effectively lifted in January 2013, though document checks still occur randomly.

43. A particular concern expressed by the local population relates to medical emergency referrals to Zugdidi Hospital, and there were some allegations that closure of the Inguri checkpoint during the night caused delays in reaching proper medical services, resulting in casualties. While the alleged incidents, their background and the possible connection of the closure of the crossing point to the death of any individuals could not be fully verified, it is critical that neither the selection of medical services nor access thereto should be governed by political considerations. Persons in need should be able to access medical attention wherever it can be offered most quickly at the highest attainable standard. In February 2013, the United Nations Representative was assured that access to ambulances would be prioritized on a 24-hour basis through the Inguri Bridge. Furthermore, on 19 March 2013, the personnel of international NGOs and the United Nations were informed that they would be allowed to cross the Inguri Bridge at night in case of emergency. I call upon all stakeholders to exercise maximum care and flexibility, taking into account all available medical services in the Gali region and further north, as they have developed and may develop further over time, and to permit emergency

crossings for all populations when necessary medical services can only be obtained in Zugdidi or further south-east.

44. The local population in the Gali district, including returnees, remains concerned about their freedom of movement, their continued contact with family members and friends residing on the other side of the Inguri River, and their access to social infrastructure, including medical facilities and markets in the Zugdidi district. The development and implementation of a crossing regime that allays those concerns remains crucial for improving the living conditions of the local population, advancing the reintegration of returnees and preventing renewed displacement. In that context, it is essential to identify and implement solutions for the provision of documentation in conformity with international law, including international human rights law, and the principles governing the prevention and reduction of statelessness.

45. The principles and factors governing the implementation of the return of internally displaced persons outlined in my report of 24 August 2009 (A/63/950), particularly paragraphs 8 to 14, remain valid. There is a complex nexus between the individual right to voluntary, safe and dignified return and the establishment of the conditions conducive to such return. The individual's right of return, in the case of an internally displaced person, derives from his or her right to freedom of movement as stipulated in article 12, paragraph 1, of the International Covenant on Civil and Political Rights and, in relation to a refugee, from article 12, paragraph 4, of the Covenant, according to which "no one shall be arbitrarily deprived of the right to enter his own country". In accordance with article 12, paragraph 3, of the Covenant, the freedom of movement, as established in article 12, paragraphs 1 and 2, can only be subject to restrictions "which are provided by law, are necessary to protect national security, public order (*ordre public*), public health or morals or the rights and freedoms of others, and are consistent with the other rights" recognized in the Covenant. Progress made with respect to integration, locally or by resettlement, does not result in a loss of the right of return.

46. The right of return and its exercise by an internally displaced person cannot therefore be directly linked to political questions or the conclusion of peace agreements. It is essential to recognize return as both a human right and a humanitarian issue that must be addressed irrespective of any solution to an underlying conflict. At the same time, it is primarily for the individual to assess the risks and make an informed choice whether or not to return at a given time. In doing so, a displaced person must be able to take into account all factors that could affect his or her safety, dignity and ability to exercise basic human rights.

47. The United Nations is committed to assisting States in the search for durable solutions for displaced populations, and its engagement is based on the understanding that voluntary return in safety and dignity is one durable solution, the other two being local integration and resettlement. The role of the United Nations in the facilitation, design and implementation of organized return operations must be guided by the need to avoid causing harm or contributing to the exposure of persons of concern to possible human rights violations. Therefore, activities related to organized returns must be based on a careful risk assessment, taking into consideration the existing security and human rights conditions and concerns, access to livelihoods and basic services and the voluntary nature of return. Unhindered humanitarian access and the ability of the United Nations and its mandated

agencies, funds and programmes to effectively monitor all these factors is another aspect to be taken into account.

IV. Prohibition of forced demographic changes

48. International human rights standards, as they have evolved in recent decades, provide guidance on managed population movements, including evacuations, and thereby strictly limit forced movements, including those that result in demographic change. Under principle 6 of the Guiding Principles on Internal Displacement, every human being has the right to be protected against arbitrary displacement from his or her home or place of habitual residence. A number of provisions of international law, such as article 12 of the International Covenant on Civil and Political Rights, guarantee not only the right to freedom of movement but also the freedom to choose one's residence, including the right to remain there.[1] International obligations and in particular non-refoulement obligations governing the protection of refugees and others who flee their homes as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, remain fully applicable, regardless of whether they have some demographic impact.

49. While no major new displacement was observed during the reporting period, the demographic consequences of earlier displacement remain. In that context, I would like to recall the observations of my former Representative on the Human Rights of Internally Displaced Persons in his report (A/HRC/13/21/Add.3 and Corr.1-2, paras. 7-14) and referred to in my previous report (A/64/819, paras. 22-23).

V. Humanitarian access

A. International legal foundations governing humanitarian access

50. The need to establish and maintain humanitarian space is essential in order to effectively meet the humanitarian needs of conflict-affected and displaced populations, to mitigate suffering and to enable United Nations agencies, funds and programmes to exercise their mandates. In that context, it remains important that all sides respect their obligations and act in good faith to fully implement the principle of humanitarian access, which is rooted in international humanitarian and human rights law. Free passage of relief goods and facilitation of humanitarian operations are correlated to a number of human rights, including the right to life, the right to a decent standard of living and the right to protection against discrimination. Moreover, building on the practice of the United Nations human rights treaty bodies, there is growing acceptance that the obligation of States to respect, protect and fulfil human rights includes an obligation to invite, accept and facilitate international

[1] Universal Declaration of Human Rights (arts. 12 and 13); International Covenant on Civil and Political Rights (arts. 12, paras. 1, and 17); American Convention on Human Rights (arts. 11 and 22, para. 1); African Charter on Human and Peoples' Rights (art. 12, para. 1); European Convention on Human Rights (art. 8) and Protocol No. 4 thereto (art. 2, para. 1); Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention) (arts. 49 and 147), Additional Protocol I thereto (arts. 51, para. 7, 78, para. 1, and 85, para. 4) and Additional Protocol II thereto (arts. 4, para. 3 (e), and 17); and International Labour Organization Convention No. 169 (art. 16).

(humanitarian) assistance, in particular if the State's resource capacities or other obstacles, such as lack of effective control of parts of the territory, limit its capacity to effectively address all humanitarian needs.

51. In the context of international conflict situations, international humanitarian law requires the establishment of conditions for rapid and unimpeded passage of all relief consignments, equipment and personnel. In non-international conflicts, States must organize relief actions for the civilian population, without any adverse distinction. The universal acceptance of those rules has established, as a norm of customary law in both international and non-international conflicts, that parties to a conflict must allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need.

B. Operational challenges

52. Following the amendments introduced by the Government of Georgia to the Law on Occupied Territories, taking into consideration recommendations issued by the European Commission for Democracy through Law (Venice Commission) of the Council of Europe in October 2010, the Government of Georgia issued the Regulation of the Government of Georgia on the approval of modalities for conducting activities in the occupied territories of Georgia, which, inter alia, serves as the guideline for the implementation of the Law. During the reporting period, the issuance of the modalities had no impact on the activities of the United Nations agencies, funds and programmes. In the light of the ambiguity of some provisions of the modalities, leaving a significant degree of discretion and potential arbitrariness, consideration of a review and possible reform of these norms by the new Government are welcomed. Such a review should fully take into account the international legal foundations governing humanitarian access as outlined above and the practical concerns of humanitarian and development actors operating on the ground.

53. The United Nations agencies, funds and programmes were able to implement protection, humanitarian assistance, recovery and development activities in Abkhazia as planned and the liaison mechanism, with established offices in Tbilisi and Sukhumi, continues to provide a framework for engagement and was successfully used on a number of occasions. However, uncertainty was caused among humanitarian and development actors by communications received that questioned the quality and effectiveness of humanitarian interventions, demonstrating the need to refocus on early recovery activities and more sustainable assistance, and indicating possible operational limitations and new modalities governing access to and activities in Abkhazia.

54. On 28 January, the UNHCR Field Office in Gali was informed in writing that it "should change the geographical focus of its activities and relocate all of its current and planned projects to the Gali district of the Republic of Abkhazia", and was advised "to complete the current stage of the ongoing projects in all districts of the Republic of Abkhazia excluding the Gali district until the May 1, 2013", and make known "the completion of the adjustments of its activities". Almost identical communications were received by a number of international NGOs operating in Abkhazia. However, UNDP and UNICEF did not receive a similar communication, nor did Médecins Sans Frontières.

55. UNHCR did not experience any negative impact on the exercise of its international protection mandate serving displaced populations in Abkhazia since its projects and activities focus on the returnee areas and subsequent negotiations have clarified that assistance to individual persons of concern residing beyond the Gali region would still be provided under the existing projects. A number of NGOs, however, have had to adjust their projects. Some have expressed concern that a number of humanitarian needs outside the Gali region may not be sufficiently addressed in the future and that the strict guidance received may have a negative impact on their donor support. The future impact of these measures on humanitarian access and aid operations, and ultimately on the situation of vulnerable populations, will need to be carefully monitored.

56. At the same time, the need for a proper transition from humanitarian assistance through recovery to longer-term sustainable development is becoming evident. It is important to embark on approaches that avoid gaps in the transition process and that do not ignore the remaining humanitarian needs as well as contingency considerations. In the interim, I call for respect of the international principles governing humanitarian access, for flexibility, practical approaches and measures to be taken by all stakeholders therein. Consultations must also continue among all relevant stakeholders in order to ensure up-to-date information flow on the humanitarian needs of the population and to improve coordination.

57. During the reporting period, discussions were renewed on possible humanitarian access for the United Nations to the Tskhinvali region/South Ossetia. The United Nations Representative and the other co-chairs of the Geneva international discussions were able to witness during several visits to Tskhinvali, Akhalgori and Znauri further progress on a number of ongoing humanitarian, infrastructure and reconstruction initiatives, including water projects conducted by OSCE, and road construction, which reduced by more than half the travel time between Tskhinvali and the Akhalgori valley. I also take note of some efforts to preserve or prevent further decay of the cultural heritage. UNHCR has concluded its project providing free bus tickets, seeds and other agricultural support, aimed at improving the livelihoods of persons displaced from the Akhalgori district, preserving and strengthening their links to their places of origin and keeping the prospects open for a gradual voluntary return process. However, other proposals for the humanitarian engagement of the United Nations have not materialized. Access for the United Nations humanitarian agencies has not been possible owing to the continuing lack of agreement on the modalities governing humanitarian access. At the same time, ICRC continued to implement a number of projects throughout the area and a number of complementary medical activities are being explored by NGOs.

VI. Property rights of refugees and internally displaced persons

58. Property-related issues remained on the agenda of Working Group II of the Geneva international discussions. The resolution of those issues remains contentious, in particular owing to the gaps in property registration and prevailing disagreement over applicable norms. The matter is further complicated by the historical legacy of multiple legal transition processes related to property following the dissolution of the former Soviet Union.

59. Those factors, as well as unclear, non-transparent and inconsistent practices, have resulted in significant legal insecurity as regards property rights and related transactions. Fears with regard to violations of property rights prevail and have a negative effect on the local population, including returnees, but also internally displaced persons and refugees or former refugees considering return. Their concerns in relation to the protection of their property rights have been aggravated by registration of so-called "abandoned property", as well as other regulative and administrative measures taken. The Law of Georgia on property restitution and compensation on the territory of Georgia for the victims of conflict in the former South Ossetia district is not yet implemented in practice and has not resulted in restitution of property.

60. I reiterate my call upon all parties to fully respect and protect the property rights of refugees, internally displaced persons and their descendants and to adhere to the principles on housing and property restitution for refugees and displaced persons (referred to as the "Pinheiro principles") and the underlying norms of international law, including international human rights law. I encourage the parties to resolve the complex legal and political issues that impede progress and to implement restitution or compensation measures in order to ensure that displaced populations have full enjoyment of their property and housing rights. The United Nations agencies, funds and programmes remain committed to providing the necessary assistance in meeting those challenges.

VII. Timetable for the voluntary return of all refugees and internally displaced persons and work towards durable solutions

61. No timetable for the voluntary return of all refugees and internally displaced persons has been developed given the prevailing environment and continued discussions among the parties. As long as the conditions for organized returns in safety and dignity are not fulfilled and mechanisms for property restitution are not established, the design of a comprehensive timetable or road map for returns must remain an open matter. Those challenges should not prevent the parties from working towards identifying durable solutions for all displaced persons, giving particular attention to the implementation of the right of return. I would like to reiterate my call upon all participants in the Geneva international discussions to engage constructively on this issue, building on international law and relevant principles.

62. In the absence of conditions conducive to organized return and appropriate implementation mechanisms, the United Nations agencies, funds and programmes will continue to concentrate their efforts on providing the conflict-affected populations, including spontaneous returnees or persons in the process of returning, with humanitarian assistance and support for their reintegration. The United Nations agencies, funds and programmes remain committed to proceeding at the appropriate time, in consultation and cooperation with all parties concerned, with the development of a timetable or road map addressing all components outlined in my report (A/63/950), in particular paragraph 20.

VIII. Conclusion

63. Over the past four and a half years, the Geneva international discussions, co-chaired by the European Union, OSCE and the United Nations, have remained the single forum for the key stakeholders to discuss security and stability and humanitarian issues, in particular related to the return of refugees and internally displaced persons. Those efforts, together with humanitarian engagement by a variety of United Nations agencies, funds and programmes and other actors, have contributed to some improvements in the security and humanitarian situation on the ground. However, many security, humanitarian, human rights and development challenges remain unresolved. Despite the difficult nature of the discussions, the complexity of the issues and divergence in the positions, the participants in the discussions have continued to engage on a regular basis. In cooperation with partner organizations, the United Nations-facilitated information sessions on relevant best practices and lessons learned have helped to enrich the formal sessions of the Geneva international discussions. The United Nations stands ready to continue to support such information-sharing along with its further humanitarian and development engagement on the ground. I regret that the meetings of the Joint Incident Prevention and Response Mechanism in Gali have remained suspended since April 2012 owing to disagreement on the composition of the Mechanism. The United Nations Representative and his co-chairs have continued consultations with the respective participants to break the deadlock. I urge all participants to find a solution in order to resume the meetings of the Mechanism. Continued and more energetic efforts are needed to reach an agreement on practical steps to further strengthen the security situation and meet the pressing humanitarian concerns of the affected population, including of the internally displaced persons. I call upon all stakeholders to uphold their engagement in the Geneva international discussions and to preserve and expand humanitarian space. I also urge donors to continue and strengthen their support of the multifaceted humanitarian, development and confidence-building efforts.